

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RICHARD ROY SCOTT,

Plaintiff,

v.

DAVID HACKETT,

Defendant.

No. MC05-5029

ORDER PERMITTING CASE TO PROCEED

This matter comes before the Court *sua sponte*. On April 5, 2005, the United States District Court judges who sit in Tacoma entered an order dismissing a number of plaintiff's causes of action and barring future litigation unless plaintiff provides a signed affidavit, along with the proposed complaint, "verifying under penalty of perjury that none of the issues raised in the proposed complaint have been litigated in the past by the plaintiff." On May 2, 2006, the Clerk of Court received a complaint, a motion to proceed *in forma pauperis*, a written consent for payment of costs, a praecipe for service, and a declaration signed by Mr. Scott. Dkt. # 63 and 64. These documents are now before the undersigned for review pursuant to the terms of the bar order.¹

¹ Plaintiff filed a notice of change of address dated May 10, 2006, and requested a forty-five day stay of all of his cases because he had been moved to the King County Jail and apparently lacked the resources necessary to pursue this litigation. The undersigned has therefore postponed consideration of the matters pending in MC05-5029.

ORDER

1 Although no relief is requested in the proposed complaint, plaintiff asserts a
2 § 1983 claim against defendant Hackett, setting forth in detail the role Hackett played in
3 plaintiff's detention in Pacific County Jail and the Shelton Correction Center between May 16,
4 2003, and May 19, 2003. Pursuant to the terms of the "Order Adopting Report and
5 Recommendation," dated April 5, 2005, plaintiff has submitted a signed declaration verifying
6 that none of the issues raised in the proposed complaint have been litigated in the past by the
7 plaintiff.

8 Upon review of plaintiff's declaration and the record in Scott v. Sultemeier, C04-
9 5365RJB/KLS, it appears that plaintiff voluntarily dismissed his prior claims against Hackett
10 and the other defendants named in C04-5365RJB/KLS effective November 22, 2004, and
11 February 2, 2005. These dismissals preceded the entry of the April 5, 2005, bar order
12 purporting to dismiss the action with prejudice. Giving plaintiff every benefit of the ambiguities
13 created by the dismissal of C04-5365RJB/KLS before the Report and Recommendation was
14 written or adopted, the Court finds that the issues raised in the above-captioned matter have not
15 been finally resolved and may proceed subject to the other requirements imposed by the "Order
16 Adopting Report and Recommendation," dated April 5, 2005. The Clerk of Court shall docket
17 this order in MC05-5029 and open a new cause of action containing all documents related to
18 plaintiff's May 2, 2006, submission.

19
20 DATED this 26th day of June, 2006.

21
22 

23 Robert S. Lasnik,
24 Chief Judge, United States District Court
25
26